



General Assembly

February Session, 2016

***Raised Bill No. 219***

LCO No. 1626



Referred to Committee on JUDICIARY

Introduced by:  
(JUD)

***AN ACT CONCERNING PROBATE COURT OPERATIONS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 Section 1. (NEW) (*Effective October 1, 2016*) (a) If a Probate Court
- 2 finds, after notice and hearing on any petition, application or motion,
- 3 that the court does not have jurisdiction over the matter but that
- 4 another Probate Court of this state would have jurisdiction to hear the
- 5 petition, application or motion, the court shall order that the file be
- 6 transferred to the court that would have jurisdiction over the matter. If
- 7 the transferring court finds that more than one Probate Court of this
- 8 state may have jurisdiction over the matter, the transferring court shall
- 9 order transfer to the Probate Court that the transferring court finds is
- 10 the most convenient forum for the parties. The transferring court shall
- 11 make written findings on the basis for its determination that the
- 12 transferee court has jurisdiction over the matter and, if applicable,
- 13 which court is the most convenient forum for the parties. The
- 14 transferring court's findings shall be conclusive for all further
- 15 proceedings in the matter, provided a transfer order under this section
- 16 shall be subject to appeal as provided in section 45a-186 of the general

17 statutes.

18 (b) Upon issuance of a transfer order under subsection (a) of this  
19 section, the transferring court shall cause certified copies of all  
20 documents in the transferring court's file to be delivered to the  
21 transferee court. The transferee court shall proceed on the underlying  
22 petition, application or motion as if it had originally been filed with the  
23 transferee court. No additional filing fee shall apply.

24 (c) Nothing in this section shall prevent a court that has jurisdiction  
25 over a case from transferring the case to another court under a statute  
26 authorizing such transfer.

27 Sec. 2. Section 45a-288 of the general statutes is repealed and the  
28 following is substituted in lieu thereof (*Effective October 1, 2016*):

29 (a) When a will conveying property situated in this state has been  
30 proved and established out of this state by a court of competent  
31 jurisdiction, the executor of such will or any person interested in such  
32 property may present to the [court of probate] Probate Court in the  
33 district determined under the provisions of section 45a-287, an  
34 authenticated and exemplified copy of such will and of the record of  
35 the proceedings proving and establishing the will and request that  
36 such copies be filed and recorded. The request shall be accompanied  
37 by a complete statement in writing of the property and estate of the  
38 decedent in this state. If, upon a hearing, after such notice to the  
39 [Commissioner of Revenue Services and other] parties in interest as the  
40 court orders, no sufficient objection is shown, the [court of probate]  
41 Probate Court shall order such copies to be filed and recorded, and  
42 they shall thereupon become a part of the files and records of such  
43 court, and shall have the same effect as if such will had been originally  
44 proved and established in such court. [of probate. Notwithstanding  
45 any objection by said commissioner to the domicile of the decedent as  
46 claimed on an application to place a will on file, the court may, in the  
47 absence of objection by any other interested party, order the copies to

48 be filed and recorded subject only to a subsequent and final finding of  
49 domicile as provided in section 45a-309.]

50 (b) Nothing in this section shall give effect to a will made in this  
51 state by an inhabitant thereof which has not been executed according  
52 to the laws of this state.

53 (c) If the [court of probate] Probate Court finds sufficient objection  
54 to such will, the applicant shall offer competent proof of the contents  
55 and legal sufficiency of the will except that the original thereof need  
56 not be produced unless so directed by the [court of probate] Probate  
57 Court.

58 Sec. 3. Subsection (g) of section 45a-656b of the general statutes is  
59 repealed and the following is substituted in lieu thereof (*Effective*  
60 *October 1, 2016*):

61 (g) A person under conservatorship may waive the right to a  
62 hearing required under this section if the attorney for the person under  
63 conservatorship has consulted with the person under conservatorship  
64 and the attorney has filed with the court a record of the waiver. Such a  
65 waiver shall be invalid if the waiver does not represent the wishes of  
66 the person under conservatorship. If a person under voluntary  
67 representation pursuant to section 45a-646 does not have an attorney,  
68 the court shall conduct a hearing to determine whether the waiver  
69 represents the person's wishes.

70 Sec. 4. Section 45a-106a of the general statutes is repealed and the  
71 following is substituted in lieu thereof (*Effective October 1, 2016*):

72 (a) The fees set forth in this section apply to each filing made in a  
73 Probate Court on or after January 1, 2016, in any matter other than a  
74 decedent's estate.

75 (b) The fee to file each of the following motions, petitions or  
76 applications in a Probate Court is two hundred twenty-five dollars:

77 (1) With respect to a minor child: (A) Appoint a temporary  
78 guardian, temporary custodian, guardian, coguardian, permanent  
79 guardian or statutory parent, (B) remove a guardian, including the  
80 appointment of another guardian, (C) reinstate a parent as guardian,  
81 (D) terminate parental rights, including the appointment of a guardian  
82 or statutory parent, (E) grant visitation, (F) make findings regarding  
83 special immigrant juvenile status, (G) approve placement of a child for  
84 adoption outside this state, ~~(H)~~ approve an adoption, ~~[(H)]~~ (I) validate  
85 a foreign adoption, ~~[(I)]~~ (J) review, modify or enforce a cooperative  
86 postadoption agreement, (K) review an order concerning contact  
87 between an adopted child and his or her siblings, (L) resolve a dispute  
88 concerning a standby guardian, ~~[(J)]~~ (M) approve a plan for voluntary  
89 services provided by the Department of Children and Families, ~~[(K)]~~  
90 (N) determine whether the termination of voluntary services provided  
91 by the Department of Children and Families is in accordance with  
92 applicable regulations, (O) conduct an in-court review to modify an  
93 order, ~~[(L)]~~ (P) grant emancipation, ~~[(M)]~~ (Q) grant approval to marry,  
94 ~~[(N)]~~ (R) transfer funds to a custodian under sections 45a-557 to 45a-  
95 560b, inclusive, ~~[(O)]~~ (S) appoint a successor custodian under section  
96 45a-559c, (T) resolve a dispute concerning custodianship under  
97 sections 45a-557 to 45a-560b, inclusive, and ~~[(P)]~~ (U) grant authority to  
98 purchase real estate;

99 (2) Determine paternity;

100 (3) Determine the age and date of birth of an adopted person born  
101 outside the United States;

102 (4) With respect to adoption records: (A) Appoint a guardian ad  
103 litem for a biological relative who cannot be located or appears to be  
104 incompetent, (B) appeal the refusal of an agency to release information,  
105 (C) release medical information when required for treatment, and (D)  
106 grant access to an original birth certificate;

107 (5) Approve an adult adoption;

108 (6) With respect to a conservatorship: (A) Appoint a temporary  
109 conservator, conservator or special limited conservator, (B) change  
110 residence, terminate a tenancy or lease, sell or dispose household  
111 furnishings, or place in a long-term care facility, (C) determine  
112 competency to vote, (D) approve a support allowance for a spouse, (E)  
113 grant authority to elect the spousal share, (F) grant authority to  
114 purchase real estate, (G) give instructions regarding administration of  
115 a joint asset or liability, (H) distribute gifts, (I) grant authority to  
116 consent to involuntary medication, (J) determine whether informed  
117 consent has been given for voluntary admission at a hospital for  
118 psychiatric disabilities, (K) determine life-sustaining medical  
119 treatment, [(K)] (L) transfer to or from another state, [(L)] (M) modify  
120 the conservatorship in connection with a periodic review, [(M)] (N)  
121 excuse accounts under rules of procedure approved by the Supreme  
122 Court under section 45a-78, (O) terminate the conservatorship, and  
123 [(N)] (P) grant a writ of habeas corpus;

124 (7) Resolve a dispute concerning advance directives or life-  
125 sustaining medical treatment when the individual does not have a  
126 conservator or guardian;

127 (8) With respect to an elderly person as defined under section 17b-  
128 450: (A) Enjoin an individual from interfering with the provision of  
129 protective services to [an elderly person] such person, and (B)  
130 authorize the Commissioner of Social services to enter the premises of  
131 the person to determine whether such person needs protective  
132 services;

133 (9) With respect to an adult with intellectual disability or autism  
134 spectrum disorder: (A) Appoint a temporary limited guardian,  
135 guardian or standby guardian, (B) grant visitation, (C) determine  
136 competency to vote, (D) modify the guardianship in connection with a  
137 periodic review, [(D)] (E) determine life-sustaining medical treatment,  
138 [(E)] (F) approve an involuntary placement, [(F)] (G) review an  
139 involuntary placement, and [(G)] (H) grant a writ of habeas corpus;

140       (10) With respect to psychiatric disability: (A) Commit an individual  
141       for treatment, (B) issue a warrant for examination of an individual at a  
142       general hospital, (C) determine whether there is probable cause to  
143       continue an involuntary confinement, (D) review an involuntary  
144       confinement for possible release, (E) authorize shock therapy, (F)  
145       authorize medication for treatment of psychiatric disability, (G) review  
146       the status of an individual under the age of sixteen as a voluntary  
147       patient, and (H) recommit an individual under the age of sixteen for  
148       further treatment;

149       (11) With respect to drug or alcohol dependency: (A) Commit an  
150       individual for treatment, (B) recommit an individual for further  
151       treatment, and (C) terminate an involuntary confinement;

152       (12) With respect to tuberculosis: (A) Commit an individual for  
153       treatment, (B) issue a warrant to enforce an examination order, and (C)  
154       terminate an involuntary confinement;

155       (13) Compel an account by the trustee of an inter vivos trust,  
156       attorney-in-fact, custodian under sections 45a-557 to 45a-560b,  
157       inclusive, or treasurer of an ecclesiastical society or cemetery  
158       association;

159       (14) With respect to a testamentary or inter vivos trust: (A)  
160       Construe, divide, reform or terminate the trust, [(B) appoint a trustee  
161       to fill a vacancy in the office of trustee, (C) determine title to property,  
162       (D) apply the doctrine of cy pres or approximation, (E) authorize the  
163       trustee to disclaim an interest in property, and (F)] (B) enforce the  
164       provisions of a pet trust, and (C) excuse a final account under rules of  
165       procedure approved by the Supreme Court under section 45a-78;

166       (15) Authorize a fiduciary to establish a trust;

167       (16) Appoint a trustee for a missing person;

168       (17) Change a person's name;

169 (18) Issue an order to amend the birth certificate of an individual  
170 born in another state to reflect a gender change;

171 (19) Require the Department of Public Health to issue a delayed  
172 birth certificate;

173 (20) Compel the board of a cemetery association to disclose the  
174 minutes of the annual meeting;

175 (21) Issue an order to protect a grave marker;

176 (22) Restore rights to purchase, possess and transport firearms;

177 (23) Issue an order permitting sterilization of an individual; and

178 (24) With respect to any case in a Probate Court other than a  
179 decedent's estate: (A) Compel or approve an action by the fiduciary,  
180 (B) give advice or instruction to the fiduciary, (C) authorize a fiduciary  
181 to compromise a claim, (D) list, sell or mortgage real property, (E)  
182 determine title to property, (F) resolve a dispute between cofiduciaries  
183 or among fiduciaries, (G) remove a fiduciary, (H) appoint a successor  
184 fiduciary or fill a vacancy in the office of fiduciary, (I) approve  
185 fiduciary or attorney's fees, (J) apply the doctrine of cy pres or  
186 approximation, (K) reconsider, modify or revoke an order, and (L)  
187 decide an action on a probate bond.

188 (c) The fee to file a petition for custody of the remains of a deceased  
189 person in a Probate Court is one hundred fifty dollars, except that the  
190 court shall waive the fee if the state is obligated to pay funeral and  
191 burial expenses under section 17b-84.

192 (d) The fee for a fiduciary to request the release of funds from a  
193 restricted account in a Probate Court is one hundred fifty dollars,  
194 except that the court shall waive the fee if the court approves the  
195 request without notice and hearing in accordance with the rules of  
196 procedure adopted by the Supreme Court under section 45a-78.

197 (e) The fee for mediation conducted by a member of the panel  
198 established by the Probate Court Administrator is three hundred fifty  
199 dollars per day or part thereof.

200 (f) The fee to request a continuance in a Probate Court is fifty  
201 dollars, plus the actual expenses of rescheduling the hearing that are  
202 payable under section 45a-109, except that the court, for cause shown,  
203 may waive either the fifty-dollar fee or the actual expenses of  
204 rescheduling the hearing, or both. The fee shall be payable by the party  
205 who requests the continuance of a scheduled hearing or whose failure  
206 to appear necessitates the continuance.

207 (g) The fee to file a motion to permit an attorney who has not been  
208 admitted as an attorney under the provisions of section 51-80 to appear  
209 pro hac vice in a matter in the Probate Court is two hundred fifty  
210 dollars.

211 (h) Except as provided in subsection (d) of section 45a-111, fees  
212 imposed under this section shall be paid at the time of filing.

213 (i) If a statute or rule of procedure approved by the Supreme Court  
214 under section 45a-78 specifies filings that may be combined into a  
215 single motion, petition or application, the fee under this section for the  
216 combined filing is the amount equal to the largest of the individual  
217 filing fees applicable to the underlying motions, petitions or  
218 applications.

219 (j) No fee shall be charged under this section if exempted or waived  
220 under section 45a-111 or any other provision of the general statutes.

221 Sec. 5. Section 45a-612 of the general statutes is repealed and the  
222 following is substituted in lieu thereof (*Effective October 1, 2016*):

223 [The Court of Probate may grant the right of visitation to any person  
224 who has been removed as guardian of any minor child or children, any  
225 relative of the minor child or children or any parent who has been



denied temporary custody of any minor child or children pending the hearing on a removal or termination of parental rights application pursuant to the provisions of sections 45a-132, 45a-593 to 45a-597, inclusive, 45a-603 to 45a-622, inclusive, and 45a-629 to 45a-638, inclusive] In connection with any proceeding for removal of guardian, appointment of guardian for a minor who has no guardian or termination of parental rights pursuant to sections 45a-603 to 45a-622, inclusive, and 45a-715 to 45a-719, inclusive, as amended by this act, the Probate Court may grant visitation to (1) any parent or guardian if temporary custody of the minor has been granted to another pending the hearing on removal or termination of parental rights, (2) any person who has been removed as guardian of a minor, or (3) any relative of the minor. Such order shall be according to the best judgment of the court upon the facts of the case and subject to such conditions and limitations as it deems equitable. In making, modifying or terminating such an order, the court shall be guided by the best interest of the [child] minor, giving consideration to the wishes of such [child] minor if he or she is of sufficient age and capable of forming an intelligent opinion. The grant of such visitation rights shall not prevent any court of competent jurisdiction from thereafter acting upon the custody of such [child] minor, the parental rights with respect to such [child] minor or the adoption of such [child] minor, and any such court may include in its decree an order terminating such visitation rights.

Sec. 6. Subsection (a) of section 45a-614 of the 2016 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(a) Except as provided in subsection (b) of this section, the following persons may [apply to] petition the Probate Court [for the district in which the minor resides] for the removal as guardian of one or both parents of the minor: (1) Any adult relative of the minor, including those by blood or marriage; (2) a person with actual physical custody of the minor at the time the petition is filed; or (3) counsel for the minor. The petition shall be filed in the Probate Court in the district in

259 which the minor resides, is domiciled or is located at the time of the  
260 filing of the petition.

261       Sec. 7. Subsection (e) of section 45a-715 of the 2016 supplement to  
262 the general statutes is repealed and the following is substituted in lieu  
263 thereof (*Effective October 1, 2016*):

264       (e) A petition under this section shall be filed in the Probate Court  
265 for the district in which (1) the petitioner [or] resides, (2) the child  
266 resides, [or,] is domiciled or is located at the time of the filing of the  
267 petition, (3) in the case of a minor who is under the guardianship of  
268 any child care facility or child-placing agency, in the Probate Court for  
269 the district in which [the main office or any local] any office of the  
270 agency is located. If the petition is filed with respect to a child born out  
271 of wedlock, the petition shall state whether there is a putative father to  
272 whom notice shall be given under subdivision (2) of subsection (b) of  
273 section 45a-716.

274       Sec. 8. Section 45a-644 of the general statutes is repealed and the  
275 following is substituted in lieu thereof (*Effective October 1, 2016*):

276       For the purposes of [sections 45a-644] this section and sections 45a-  
277 645 to 45a-663, inclusive, the following terms shall have the following  
278 meanings:

279       (a) "Conservator of the estate" means a person, [a] municipal or state  
280 official, or [a private profit or nonprofit] corporation, limited liability  
281 company, partnership or other entity recognized under the laws of this  
282 state, whether or not operated for profit, except a hospital, nursing  
283 home facility, as defined in section 19a-521, or residential care home, as  
284 defined in section 19a-521, appointed by the [Court of] Probate Court  
285 under the provisions of [sections 45a-644] this section and sections 45a-  
286 645 to 45a-663, inclusive, to supervise the financial affairs of a person  
287 found to be incapable of managing his or her own affairs or of a person  
288 who voluntarily asks the [Court of] Probate Court for the appointment  
289 of a conservator of the estate, and includes a temporary conservator of

290 the estate appointed under the provisions of section 45a-654.

291 (b) "Conservator of the person" means a person, [a] municipal [or  
292 state official, or a private profit or nonprofit] corporation, limited  
293 liability company, partnership or other entity recognized under the  
294 laws of this state, whether or not operated for profit, except a hospital  
295 or nursing home facility as defined in section 19a-521, appointed by  
296 the [Court of] Probate Court under the provisions of [sections 45a-644]  
297 this section and sections 45a-645 to 45a-663, inclusive, to supervise the  
298 personal affairs of a person found to be incapable of caring for himself  
299 or herself or of a person who voluntarily asks the [Court of] Probate  
300 Court for the appointment of a conservator of the person, and includes  
301 a temporary conservator of the person appointed under the provisions  
302 of section 45a-654.

303 (c) "Incapable of caring for one's self" or "incapable of caring for  
304 himself or herself" means that a person has a mental, emotional or  
305 physical condition that results in such person being unable to receive  
306 and evaluate information or make or communicate decisions to such  
307 an extent that the person is unable, even with appropriate assistance,  
308 to meet essential requirements for personal needs.

309 (d) "Incapable of managing his or her affairs" means that a person  
310 has a mental, emotional or physical condition that results in such  
311 person being unable to receive and evaluate information or make or  
312 communicate decisions to such an extent that the person is unable,  
313 even with appropriate assistance, to perform the functions inherent in  
314 managing his or her affairs, and the person has property that will be  
315 wasted or dissipated unless adequate property management is  
316 provided, or that funds are needed for the support, care or welfare of  
317 the person or those entitled to be supported by the person and that the  
318 person is unable to take the necessary steps to obtain or provide funds  
319 needed for the support, care or welfare of the person or those entitled  
320 to be supported by the person.

321 (e) "Involuntary representation" means the appointment of a  
322 conservator of the person or a conservator of the estate, or both, after a  
323 finding by the [Court of] Probate Court that the respondent is  
324 incapable of managing his or her affairs or incapable of caring for  
325 himself or herself.

326 (f) "Respondent" means an adult person for whom an application for  
327 involuntary representation has been filed or an adult person who has  
328 requested voluntary representation.

329 (g) "Voluntary representation" means the appointment of a  
330 conservator of the person or a conservator of the estate, or both, upon  
331 request of the respondent, without a finding that the respondent is  
332 incapable of managing his or her affairs or incapable of caring for  
333 himself or herself.

334 (h) "Conserved person" means a person for whom involuntary  
335 representation is granted under [sections 45a-644] this section and  
336 sections 45a-645 to 45a-663, inclusive.

337 (i) "Personal needs" means the needs of a person including, but not  
338 limited to, the need for food, clothing, shelter, health care and safety.

339 (j) "Property management" means actions to (1) obtain, administer,  
340 manage, protect and dispose of real and personal property, intangible  
341 property, business property, benefits and income, and (2) deal with  
342 financial affairs.

343 (k) "Least restrictive means of intervention" means intervention for a  
344 conserved person that is sufficient to provide, within the resources  
345 available to the conserved person either from the conserved person's  
346 own estate or from private or public assistance, for a conserved  
347 person's personal needs or property management while affording the  
348 conserved person the greatest amount of independence and self-  
349 determination.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2016</i>	New section
Sec. 2	<i>October 1, 2016</i>	45a-288
Sec. 3	<i>October 1, 2016</i>	45a-656b(g)
Sec. 4	<i>October 1, 2016</i>	45a-106a
Sec. 5	<i>October 1, 2016</i>	45a-612
Sec. 6	<i>October 1, 2016</i>	45a-614(a)
Sec. 7	<i>October 1, 2016</i>	45a-715(e)
Sec. 8	<i>October 1, 2016</i>	45a-644

***Statement of Purpose:***

To: (1) Provide a Probate Court with the ability to transfer a file when another Probate Court has jurisdiction over the file, (2) eliminate the requirement that the Probate Court provide notice of certain proceedings to the Commissioner of Revenue Services, (3) require a hearing for a person under voluntary representation who is without an attorney before a change of residence for such person occurs, (4) set forth additional activities that require a filing fee, (5) clarify who may be granted rights of visitation with a minor, (6) expand jurisdictional venue in certain Probate Court proceedings involving removal of guardian or termination of parental rights, and (7) expand the types of entities that may be appointed as a conservator.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*